



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,865	11/05/2003	Joseph J. Kubler	14364US03	7803

7590 08/19/2005

Christopher C. Winslade
McAndrews, Held & Malloy, Ltd
34th Floor
500 W. Madison St.
Chicago, IL 60661

EXAMINER

VINCENT, DAVID ROBERT

ART UNIT

PAPER NUMBER

3628

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/701,865

Applicant(s)

KUBLER ET AL.

Examiner

David R. Vincent

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/2/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3628

1. Applicant's arguments filed 6/2/05 have been fully considered but they are not persuasive. The applicant basically argues limitations that are not in the claim and the specification is not the measure of the invention. Therefore, limitations contained therein can not be read into the claims for the purpose of avoiding the prior art; see In re Sprock, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1968).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Art Unit: 3628

Claims 22-24, 28-32, 36-39, 43-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Ayanoglu (5,570,367).

As shown in Figs. 1-6, especially Fig. 1, Ayanoglu discloses communications network (Fig. 1) supporting the exchange of voice and data (data from e.g., computer 102, and voice from phone 152, Fig. 1 and respective disclosure, especially col. 2, lines 50-56; and col. 3) wherein the portable terminal (e.g., 152) includes a processing circuit which converts analog data/sound (e.g., speech) into packets using a medium access controller (e.g., col. 3, especially line 22), captures data packets (using e.g., CDMA, TDMA and receiving e.g., data for computer 102; col. 2; col. 7, lines 14-41), at least one access device (cell sites 106-108, 110, or 112, and respective disclosure) having an interface (e.g., connection to 130 or port to 140) for a wired network which is a PSTN or Internet (col. 5, lines 50-60), selectively transferring (based on call setup, col. 6, lines 20-32; col. 7, lines 14-41; and using polling and stored packets in a buffer, col. 4, lines 5-66), using a transceiver circuit to send at least a portion of the information from a network interface to a wireless interface (e.g., modulating data, col. 2, lines 45-67; sending analog voice over a digital wireless medium, col. 3, lines 6-50; or Fig. 1 and respective disclosure), using IP or TCP/IP (e.g., col. 5, lines

Art Unit: 3628

50-60), a digital network interface (using packets, as in TCP/IP, col. 5, lines 50-60), and data unrelated to voice (e.g., data from computer 102; col. 7, lines 14-41 or PDA, col. 3), as specified in claims 22-24, 28-32, 36-39, 43-50.

Response to Arguments

In re pg. 8, the applicant argues Ayanoglu fails to disclose digital voice packets, and converting sound into voice packets for wireless transmission.

In response, the examiner disagrees. Ayanoglu discloses a phone which is has microphone for human analog speech, and clearly discloses using digital CDMA (col. 2, lines 50-52) frames over the air col. 3, especially lines 6-12, and discloses data generated by cellular devices 10 and 11 are packetized using a packet assembler (col. 3, lines 21-28). The applicant did not further define the term packets so it reads on frames.

In re pg. 9, the applicant argues that TDMA and CDMA do not use packets.

In response, the examiner maintains that at least the digital CDMA frames do read on packets.

In re pg. 9, the applicant argues Ayanoglu fails to disclose a wireless packet network that uses IP.

In response, a wireless comprises of hardware, e.g., base stations or transceivers, and a landline connection so that it

Art Unit: 3628

can route calls into the PSTN when needed. The applicant has not further defined the network but clearly the network (104) is wireless (note the antennas and cell sites, e.g., 106, 107), and clearly the network (104) handles packets (col. 3; or see how the BS transmits packets, col. 4, lines 54-56). Packets are also transmitted by devices (10 or 11, col. 5, lines 4-6). Furthermore, the network 140 comprises of an IP or ATM network (Internet, col. 5, lines 56-60).

In re pg. 9, the applicant argues that Ayanoglu does not teach that the land-line network is a wireless packet network.

In response, clearly the network (140) is wireless and is an IP network (col. 5).

In re pg. 10, the applicant argues that Ayanoglu discloses a land-line network that is separate and distinct from the wireless network.

In response, the examiner would like proof of this because it does not appear to make any sense. Ayanoglu clearly discloses a network (104) connected to a PSTN or Internet (col. 5) which has antennas and cell sites.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3628

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 25-27, 33-35, 40-41, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayanoglu as set forth above, in view of Bruckert (US 5,128,959), as set forth in previous office action.

Response to Arguments

Not argued.

Claim Rejections - 35 USC § 103

2. Claims 27, 35, 42, and 51-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Ayanoglu and Cripps, as set forth above, in view of Scholefield (US 5,742,592), as set forth in previous office action.

Response to Arguments

Not argued.

Claim Rejections - 35 USC § 103

3. Claims 27, 35, 42, and 51-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayanoglu, as set forth above,

Art Unit: 3628

in view of Mahany (US 5,483,676), as set forth in previous office action.

Response to Arguments

Not argued.

Claim Rejections - 35 USC § 103

4. Claims 25, 33, 40, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayanoglu as set forth above, in view of Cripps (US 5,838,730), as set forth in previous office action.

Response to Arguments

Not argued.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Clark (US 5,960,074) discloses transmitting packets (see Fig. 1; Abstract; or col. 2-3).

Lev (US 5,729,544) discloses transmitting packets (Fig. 3; Abstract; cols. 3-5).

Claim Rejections - 35 USC § 103

Art Unit: 3628

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 26, 34 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayanoglu as set forth above, in view of Gilhousen (US 5,280,472), as set forth in previous office action.

Response to Arguments

Not argued.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Clark (US 5,960,074) discloses transmitting packets (see Fig. 1; Abstract; or col. 2-3).

Lev (US 5,729,544) discloses transmitting packets (Fig. 3; Abstract; cols. 3-5).

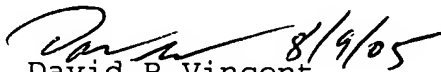
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R.

Art Unit: 3628

Vincent whose telephone number is 571 272 3080. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on 571 272 6799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 8/9/05
David R Vincent
Primary Examiner
Art Unit 3628

August 9
~~February 19~~, 2005